

**HAMPTON ZONING BOARD OF ADJUSTMENT
AMENDED MINUTES
Thursday, July 26, 2007**

Members Present:

Tom McGuirk, Chairman
Jack Lessard (Alternate)
Vic Lessard
Bill O'Brien
Bryan Provencal

Others Present:

Kevin Schultz, Building Inspector
Joan Rice, Recording Secretary

Chairman McGuirk called the meeting to order at 7:00 p.m.

The Pledge of Allegiance was said.

Chairman McGuirk introduced the members of the Board.

37-07 An Appeal by Colsak Investment, LLC of Administrative Decision for property located at 426 Winnacunnet Road re denial of a building permit. This property is located at Map 208, Lot 48 in a RA/RB zone.

Colsak Investment was represented by Attorney Jeff Spear.

Mr. O'Brien said that he did not serve on this Board during prior hearings on this matter. Mr. O'Brien also said he had thoroughly reviewed the file and as he sees it, the applicant came before the Board in March, had his application denied and is now trying to appeal that decision via the non-issuance of a building permit. The applicant should have appealed the ZBA decision in the March or April timeframe. An appeal is supposed to be made within 30 days after being denied. Mr. O'Brien said he would like to get Town Counsel's ruling before proceeding on this matter.

Chairman McGuirk stated that he would like to hear the argument.

Mr. Jack Lessard said he felt the Board turned this down and agreed to a 2-bedroom house. He said he did not understand why this was being brought forward now.

Moved by Mr. O'Brien, seconded by Mr. Provencal, to place this matter first on next month's agenda and in the interim obtain Town Counsel's opinion on whether this matter can be appealed.

VOTE: 4-0-1 (McGuirk). Motion passed.

Moved by Mr. Vic Lessard, seconded by Mr. Provencal, to ask Town Counsel if information can be distributed to the abutters connected with this matter.

VOTE: 5-0-0. Motion passed.

Attorney Spear said he would like the opportunity to speak at the next meeting. Chairman McGuirk replied that if Town Counsel says this matter cannot be heard, the applicant will have to take the matter to the Town Counsel.

BUSINESS SESSION

Mr. Schultz brought up an example where a woman filed for a permit to replace in kind and asked if the Board has a problem with something that is replaced in kind. The consensus was that there would be no problem so long as it is “exactly in kind”, however Town Counsel’s opinion will be sought.

Chairman McGuirk asked if a Consent Agenda could be done. The Board would just sign off on this at each meeting. If there is a problem with any item, then it could go on the next month’s agenda.

Mr. O’Brien said he would like to receive a copy of the Consent Agenda at least 48 hours prior to the meeting.

Mr. O’Brien discussed the Petition for Relief form. Regarding “Leased Land”, he would like to add “and schedule an appointment with the Building Inspector”. Regarding “Wetlands”, he would like to add “If yes, and relief is sought only to Section 2.3 of the Zoning Ordinance, ‘Wetlands Conservation District’, schedule an appointment with the Building Inspector”. He would also like to remove the paragraph regarding condominiums. Mr. O’Brien also suggested that the reverse side of the Red pamphlet cover sheet contain the items required for a complete submittal.

Moved by Mr. O’Brien, seconded by Mr. Provencal, to make the suggested changes to the Petition for Relief and the Red pamphlet.

VOTE: 5-0-0. Motion passed.

Adoption of Minutes – June 21, 2007

The Minutes were adopted with the following corrections:

1. Where Mr. Lessard is referred to, “Vic” should precede Lessard.

2. Page 3, 4th paragraph – First sentence should read “Attorney Jeff Merrill, representing the abutter at 8 7th Street, said that they opposed the variance”.
3. Page 3, 8th paragraph – 234.b should read 2.3.4.B. Second sentence should read “The site plan has 3 cabins within the 50’ buffer”.
4. Page 4, 6th paragraph – Add “Mr. O’Brien then pointed out that the east and west elevation plans do not depict the requested variance. Mr. Mailloux indicated he would submit corrected elevation plans to the Building Inspector.
5. Page 4, 7th paragraph - This paragraph should read “Paul and Diane Tower, 390 Ocean Drive came forward. Mr. Tower said he was concerned about restoring the north side deck and that when he asked for a variance he was required to build conforming decks. He said he only would ask that the Board be consistent in its decisions. Mr. Tower was then advised that the north side deck was not being restored”.
6. Page 4, last paragraph – Should read “ Mr. Vic Lessard **moved**, seconded by Mr. Provencal, to approve the petition and that corrected elevation plans be submitted”.
7. Page 5, first paragraph – Should read “Mr. O’Brien said he did not agree With the words “preserve the rights” in criteria #1 2a Area Variance. He felt the wording should be eliminated after the word ‘requirements’.”
8. Page 5, second paragraph – After “criteria #1” add “2a Area Variance”. Then add another paragraph saying “The Board agreed that the five criteria had been met”.
9. Page 5, 4th paragraph – First sentence should read “Attorney Jeff Merrill, representing the applicants, said they would like to appeal two decisions of the Planning Board.
10. Page 6, last paragraph – In the first sentence, insert the word “his” before “opinion”. In the second sentence change the word “will” to “should”.

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Adjournment

There being no further business to come before the Board, Mr. O'Brien **moved**, seconded by Mr. Provencal, that the meeting be adjourned.

The meeting was adjourned at 8:20 p.m.

Respectfully submitted,

Joan Rice
Recording Secretary